

AMENDED IN ASSEMBLY APRIL 14, 2009

CALIFORNIA LEGISLATURE—2009—10 REGULAR SESSION

ASSEMBLY BILL

No. 1405

Introduced by Assembly Members De Leon and V. Manuel Perez

February 27, 2009

An act to amend Section 38597 of the Health and Safety Code, relating to air pollution.

LEGISLATIVE COUNSEL'S DIGEST

AB 1405, as amended, De Leon. California Global Warming Solutions Act of 2006: Community Benefits Fund.

The California Global Warming Solutions Act of 2006 requires the State Air Resources Board to adopt regulations to require the reporting and verification of emissions of greenhouse gases and to monitor and enforce compliance with the reporting and verification program, and requires the state board to adopt a statewide greenhouse gas emissions limit equivalent to the statewide greenhouse gas emissions level in 1990 to be achieved by 2020. The act requires the state board to adopt rules and regulations in an open public process to achieve the maximum technologically feasible and cost-effective greenhouse gas emission reductions. The act authorizes the state board to include the use of market-based compliance mechanisms. The act authorizes the state board to adopt a schedule of fees to be paid by the sources of greenhouse gas emissions regulated pursuant to the act, and requires the revenues collected pursuant to that fee to be deposited into the Air Pollution Control Fund and be available, upon appropriation by the Legislature, for purposes of carrying out the act.

This bill would establish the Community Benefits Fund, and would require an unspecified percentage of revenues generated pursuant to

the act, including the fee discussed above, to be deposited into that fund. The moneys in the fund would be used, upon appropriation by the Legislature, ~~in the most impacted and disadvantaged communities in California to accelerate greenhouse gas emission reductions and mitigate direct health impacts of climate change for the Community Benefits Program, which the bill would create. The program would be implemented by the Community Benefits Fund Review Panel, which the bill would create within the California Environmental Protection Agency, with 9 members to be appointed by the Governor, Speaker of the Assembly, and the Senate Committee on Rules, as provided. The panel would be required to ensure that the funds appropriated to it are used in the most impacted and disadvantaged communities in California to accelerate greenhouse gas emission reductions and mitigate direct health impacts of climate change in those communities. The state board would be required to develop and recommend methodology to the panel to identify the most impacted and disadvantaged communities. The state board, the State Energy Resources Conservation and Development Commission, and the State Department of Public Health would be required to jointly develop and recommend semiannual plans for the use of funds under the program.~~

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 38597 of the Health and Safety Code is
2 amended to read:
3 38597. (a) The state board may adopt by regulation, after a
4 public workshop, a schedule of fees to be paid by the sources of
5 greenhouse gas emissions regulated pursuant to this division,
6 consistent with Section 57001. The revenues collected pursuant
7 to this section, except as provided in subdivision (b), shall be
8 deposited into the Air Pollution Control Fund and are available,
9 upon appropriation by the Legislature, for purposes of carrying
10 out this division.
11 (b) There is hereby established in the State Treasury the
12 Community Benefits Fund. ____ percent of the *total* revenues
13 generated *each year* pursuant to this division, including, but not
14 limited to, subdivision (a), shall be deposited *by the state board*
15 into the Community Benefits Fund. The moneys in the fund shall

1 be used, upon appropriation by the Legislature, ~~in the most~~
2 ~~impacted and disadvantaged communities in California to~~
3 ~~accelerate greenhouse gas emission reductions and mitigate direct~~
4 ~~health impacts of climate change.~~ *for the Community Benefits*
5 *Program described in subdivision (c).*

6 (c) (1) *The Community Benefits Fund Review Panel is hereby*
7 *created as part of the California Environmental Protection Agency.*
8 *The Assistant Secretary for Environmental Justice shall provide*
9 *support to the panel. The panel shall implement the Community*
10 *Benefits Program to ensure that funds appropriated to it by the*
11 *Legislature are solely used in the most impacted and disadvantaged*
12 *communities in California to accelerate greenhouse gas emission*
13 *reductions and mitigate direct health impacts of climate change*
14 *in those communities. The panel shall award competitive grants*
15 *for projects, including, but not limited to, any projects that do any*
16 *of the following:*

17 (A) *Reduce greenhouse gas emissions, while achieving*
18 *cobenefits such as reductions in other air pollutants and energy*
19 *efficiency.*

20 (B) *Minimize health impacts caused by global warming.*

21 (C) *Assist small businesses to reduce their greenhouse gas*
22 *emissions.*

23 (D) *Install or replace equipment that reduces greenhouse gas*
24 *emissions.*

25 (E) *Improvements to mass transit that reduce greenhouse gas*
26 *emissions, including, but not limited to, subsidies to commuters.*

27 (F) *Clean distributed electricity generation systems that reduce*
28 *greenhouse gas emissions.*

29 (G) *Energy efficiency upgrades for schools, senior centers, or*
30 *low-income housing that reduce greenhouse gas emissions.*

31 (H) *Emergency preparedness for extreme weather events caused*
32 *by global warming.*

33 (2) (A) *The panel shall have a total of nine members. The*
34 *Governor, the Speaker of the Assembly, and the Senate Committee*
35 *on Rules shall each appoint three members by _____. The members*
36 *shall have demonstrated integrity in protecting community interests*
37 *in the area of environmental protection for at least 10 years, or*
38 *have education and demonstrated expertise and at least 10 years*
39 *of working experience in the areas of air pollution, public health,*

1 energy efficiency, economics, local government, or running a small
2 business.

3 (B) The members of the panel shall serve for three-year terms
4 and can be reappointed for no more than a second three-year term.
5 For the initial appointments pursuant to subparagraph (A), the
6 Governor, the Speaker of the Assembly, and the Senate Committee
7 on Rules, shall each appoint one member to a one-year term, one
8 member to a two-year term, and one member to a three-year term.

9 (3) The state board shall develop and recommend methodology
10 to the panel to identify the most impacted and disadvantaged
11 communities, that shall be reviewed and modified, if necessary,
12 by the panel.

13 (4) The state board, the State Energy Resources Conservation
14 and Development Commission, and the State Department of Public
15 Health shall jointly develop and recommend semiannual plans for
16 the use of funds under the program. These plans shall be presented
17 to the panel for approval. The panel shall determine whether a
18 project is approved or rejected for funding pursuant to the
19 program.

20 (5) The panel shall ensure that all projects approved for funding
21 have local community support, including, but not limited to, local
22 public health and air quality support.

23 (6) Notwithstanding any other provision of this subdivision, the
24 panel shall only approve a project if it determines, based on the
25 facts available to it, that the use of moneys for that project would
26 not be inconsistent with Article XIII A of the California Constitution
27 and case law construing that provision. The panel shall ensure in
28 this regard, in consultation with the state board, that no feepayer
29 pays for a disproportionate share of the global warming harm
30 addressed by the Community Benefits Program.